

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, Rhode Island 02903

CONCISE EXPLANATORY STATEMENT

Insurance Regulation 42 – Motor Vehicle Damage Appraisers

The Department of Business Regulation (“Department”) hereby adopts Insurance Regulation 42 effective March 27, 2006 and makes this statement in accordance with R.I. Gen. Laws § 42-35-2.3. The Department adopts this regulation in order to establish standards and procedures for the issuance of licenses and govern the conduct of licensees. There are eight differences between the text of the proposed regulation as published in accordance with R.I. Gen. Laws § 42-35-3 and the regulation as adopted, other than editing changes.

1. Section 3(E) has been amended to conform with the definition in Regulation 73. The proposal added elements that are not in the Regulation 73 definition. The Department may consider these changes in future amendment of Regulation 73 to allow for full discussion of the issue.
2. Section 4(D) has been amended to be consistent with the definition of “person” in section 3(H).
3. Section 4(H) was removed as it is duplicative of section 4(F) and, therefore, may lead to confusion.
4. Section 6 has been amended to provide further clarity as to eligibility for and procedures regarding reinstatement.
5. Section 7(M) has been eliminated as it is duplicative of section 7(G).
6. Section 7(R) has been eliminated in response to comments that the appraiser is not necessarily the person responsible for compliance with this statute and placing responsibility on the appraiser could interfere with insurer compliance programs.
7. Section 8(A) and (B) have been eliminated as a result of concerns regarding enforcement and the fact that all appraisers are licensed. Section 8(C) has been moved to Section 8(S). As a result, the need for Section 8 no longer exists and the section has, therefore, been eliminated.
8. Section 9(A)(1) has been amended to clarify that it applies to written or electronic communications from the Department.

A number of comments were made during the hearing process which the Department considered, however, declined to adopt. Some of those comments suggested changes which would violate Rhode Island statutes and those changes have not been made. The remaining comments were:

1. One commenter suggested that many of the statutory provisions upon which the proposed regulation were based put the responsibility for compliance on the

insurer and, therefore, should not be expanded to include the appraiser. In each such instance, the Department believes that the separately licensed appraiser has the obligation to comply with the law when applicable and the Department has, therefore, declined the request to delete these areas from the regulation, except for section 7(R).

2. Commentators requested additions expanding the language of section 7(G). The Department believes that these changes would be substantive changes not noticed in the Department's proposed regulation. As such, under the Administrative Procedures Act such a provision cannot be adopted at this time. This declination does not affect the provisions of Insurance Bulletin 2004-2 and the Department does not believe that the language of this regulation controverts that bulletin.
3. A commentators requested additions expanding the language of section 7(H). The Department believes that these changes would be substantive changes not noticed in the Department's proposed regulation. As such, under the Administrative Procedures Act such a provision cannot be adopted at this time.
4. A commentators requested additions expanding the language of section 7(K). The Department believes that these changes would be substantive changes not noticed in the Department's proposed regulation. As such, under the Administrative Procedures Act such a provision cannot be adopted at this time.
5. Commentators requested additions expanding the language of section 8(C). The Department believes that these changes would be substantive changes not noticed in the Department's proposed regulation. As such, under the Administrative Procedures Act such a provision cannot be adopted at this time.
6. A commenter requested the addition of section 8(D). The Department believes that this would be a substantive change which was not noticed in the Department's proposed regulation. As such, under the Administrative Procedures Act such a provision cannot be adopted at this time.